

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

24147

FILE: B-209612

DATE: January 31, 1983

MATTER OF: Airpro Equipment Inc.

DIGEST:

Bid stating that country of manufacture is "USA/England" was correctly evaluated as offering foreign end product for purposes of applying Buy American Act because the bid can reasonably be construed to permit the bidder to furnish either a domestic or a foreign product in the event of award.

Airpro Equipment Inc. protests the evaluation of its bid in response to line item 3 of Invitation for Bids (IFB) R6-82-272S, issued by the Forest Service for an industrial loader backhoe tractor. Airpro argues that its bid was improperly evaluated as foreign for purposes of applying the six percent Buy American preference. Airpro states that similar equipment has been purchased in the past by the Government, including the Forest Service, and should be considered domestic. The parties agree that Airpro would have been in line for award had the six percent differential not been added. We deny the protest.

The IFB Bid Schedule required that bidders identify the country of manufacture of the equipment offered. It also included the standard Buy American Certificate (Standard Form (SF) 33, p.2) and clause (SF 32 para. 14) implementing the Buy American Act (41 U.S.C. §§ 10a-d (1976)). Airpro left its Buy American Certificate blank which action, without more, would have bound Airpro to furnish a domestic product and would have required its bid to be evaluated as offering a domestic product. See Lanier Business Products, Inc., B-196736, March 10, 1981, 81-1 CPD 186. However, Airpro identified the country of manufacture on its schedule as "USA/England." The Forest Service determined that Airpro's use of the virgule (/) implied that the country of manufacture could be the United States or England, and relying

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on our decision in Trail Equipment Company, B-205026, January 27, 1982, 82-1 CPD 63, concluded that the product offered had to be evaluated as foreign.

Although Airpro challenges the Forest Service's interpretation of its bid, contending that it honestly filled out the bid documents as it did because a portion of the manufacture of the equipment is done in England, we believe Airpro's choice of language must be construed as permitting it to furnish either a domestic or a foreign product in event of award. We have examined a number of authorities in attempting to define the meaning of the virgule, which is alternatively referred to as a "diagonal" (Webster's New Collegiate Dictionary 314 (G. & C. Merriam Co. 1975)), solidus or slash (The American Heritage Dictionary 1303, 1431 (Houghton Mifflin Co. 1969)). These authorities recognize that at least one common use of the virgule is as a conjunction to join two alternative words or phrases. See also Webster's New International Dictionary 2848 (G. & C. Merriam Co. 1952). In this sense, therefore, Airpro's use of the phrase "USA/England" as the country of manufacture implies that the equipment might be manufactured in the United States or in England.

In the circumstances, we view our decision in Trail Equipment Company, supra, as controlling. There, we considered a bid which identified a product as manufactured in the "USA or France." There, as here, the Buy American Certificate was left blank. In light of the alternative statement of country of manufacture, we concluded that the bid, although responsive, was to be treated as foreign for purposes of applying the six percent differential.

With respect to Airpro's assertion that similar equipment has been purchased in the past, we point out that the Buy American Act does not prevent the purchase of a foreign product if, applying the differential, that product remains the least costly product offered. Moreover, application of the differential depends upon whether Airpro in its bid obligated itself to furnish a domestic product. As a bidder, Airpro bore the responsibility of assuring that its bid was free of ambiguity. Any uncertainty in its bid must be construed against it since it cannot be permitted to explain or thereby alter its bid after bids

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have been opened. See Trail Equipment Company, supra. Accordingly, the differential was properly applied in evaluating Airpro's bid.

The protest is denied.

Milton J. Aocolan
for Comptroller General
of the United States